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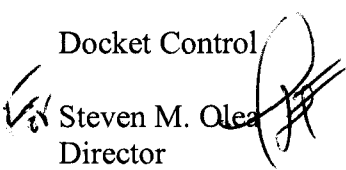


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MEMO RECEIVED

2009 SEP 18 P 4: 24

TO: Docket Control

FROM:  Steven M. Olea
Director
Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

DATE: September 18, 2009

RE: **REVISED** STAFF REPORT FOR RAY WATER COMPANY, INC.
APPLICATION FOR APPROVAL OF LONG-TERM FINANCING FOR
REPLACEMENT OF AN EXISTNG WELL (W-01380A-09-0106)

Attached is the Staff Report for the Ray Water Company, Inc.'s application for authority to borrow funds from R & M Real Estate Limited Partnership, L.L.P. of Arizona. Staff recommends denial.


Any party who wishes may file comments to the Staff Report with the Commission's Docket Control by 4:00 p.m. on or before September 28, 2009.

SMO:BCA:kdh

Originator: Brendan C. Aladi

Arizona Corporation Commission
DOCKETED

SEP 18 2009

DOCKETED BY	
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Service List for: Ray Water Company, Inc.
Docket No. W-01380A-09-0106

Ms. Rhonda Rosenbaum, President
Ray Water Company
414 North Court Avenue
Tucson, Arizona 85701

Mr. Hugh A. Holub
Attorney at Law
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Arizona Corporation Commission
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Phoenix, Arizona 85007

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**


**RAY WATER COMPANY
DOCKET NO. W-01380A-09-0106**


**APPLICATION FOR AUTHORITY
TO
INCUR LONG-TERM INDEBTEDNESS**

SEPTEMBER 18, 2009

STAFF ACKNOWLEDGMENT

The Staff Report for Ray Water Company, Docket No. W-01380A-09-0106, is the responsibility of the Staff members listed below. Brendan C. Aladi is responsible for the financial analysis. Jian Liu is responsible for the engineering review.


BRENDAN C. ALADI
PUBLIC UTILITIES ANALYST III


JIAN LIU
UTILITIES ENGINEER

**EXECUTIVE SUMMARY
RAY WATER COMPANY, INC.
DOCKET NO. W-01380A-09-0106**

On March 11, 2009, Ray Water Company, Inc. ("Ray Water" or "Applicant"), filed an application with the Arizona Corporation Commission ("Commission") requesting authorization to execute a loan agreement with R & M Real Estate Limited Partnership, L.L.P. of Arizona ("R & M Real Estate"). R & M Real Estate is a separate entity owned by the shareholders of the Applicant.

Ray Water is a Subchapter "C" Corporation and a Class "C" Arizona public service corporation that owns and operates a public water utility in portions of Pima County, Arizona. The Applicant requests authorization to obtain a \$500,000, 10-year amortizing loan at 9 percent per annum from R & M Real Estate. The terms of the proposed Promissory Note do not provide for encumbrance of the Applicant's assets. The purpose of the loan is to fund a replacement for an existing well.

Staff concludes that Ray Water's existing water system has adequate production and storage capacity. Therefore, Staff cannot conclude that constructing the proposed additional well capacity is reasonable and appropriate, even though the Applicant's cost estimates for the construction are reasonable.

Staff recommends denial of Ray Water's request for authorization to incur a 10-year amortizing loan in an amount not to exceed \$500,000 from R & M Real Estate at a 9 percent interest rate.

As of December 31, 2008, Ray Water's capital structure consisted of 100 percent equity. The Applicant has no existing debt.

Staff calculated a pro forma capital structure reflecting issuance of a \$500,000, 10-year amortizing loan at 9 percent per annum in consideration of the possibility that the Commission will approve the proposed financing, and it is composed of 1.9 percent short-term debt, 27.6 percent long-term debt and 70.5 percent equity. Staff also calculated a pro forma 1.70 debt service coverage ("DSC") ratio. Since this pro forma DSC is greater than 1.0, it shows that cash flow from operations is sufficient to cover all obligations.

Staff concludes that the Applicant's proposed lender, an affiliate, may not offer the best available loan terms despite similar quotes from two banks. For example, the Water Infrastructure Financing Authority of Arizona ("WIFA") typically provides 20-year loans at the prime rate (currently 3.25 percent) plus 2.00 percent, a significantly lower interest than the proposed loan. WIFA loans do require encumbering assets, establishing a "Debt Service Reserve Fund" and obtaining WIFA approval; however, the potential savings in interest expense is substantial. Accordingly, in the absence of a good faith effort to obtain a WIFA loan and in the event that the proposed financing is approved, the authorized terms should not be significantly less favorable than those available from WIFA.

Staff further concludes that issuance of the proposed debt financing for the purposes stated in the application is within Ray Water's corporate powers and would not impair its ability to provide services and would be consistent with sound financial practices if obtained with terms consistent with the best available. However, the loan would not be compatible with the public interest since the intended use of the proceeds is unnecessary for the provision of service and would be an inefficient use of financial and other resources.

Staff is not recommending authorization to incur debt; however, in the event that the Commission grants such authorization to the Applicant, Staff recommends authorization to incur a 10-to-22 year amortizing loan in an amount not to exceed \$500,000 from R & M Real Estate or another lender at an interest rate not exceed the prime rate plus 3.00 percent.

Staff further recommends, in the event that debt incurrence is authorized, that the Commission authorize Ray Water to pledge its assets in the State of Arizona pursuant to A.R.S. § 40-285, if necessary, in connection with the loan.

Staff further recommends, in the event that debt incurrence is authorized, authorizing Ray Water to engage in any transactions and to execute any documents necessary to effectuate the authorizations granted.

Staff further recommends, in the event that debt incurrence is authorized, that Ray Water file with Docket Control, as a compliance item in this matter, a copy of the fully executed loan documents, within 60 days of the execution of any financing transaction authorized herein.

Staff further recommends, in the event that debt incurrence is authorized, that Ray Water file with Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Environmental Quality's Certificate of Approval to Construct for the replacement well when received by Ray Water, but not later than one year after the effective date of the order granting this application.

Staff recommends that any unused authorizations to issue debt granted in this proceeding terminate on December 31, 2010.

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INTRODUCTION

On March 11, 2009, Ray Water Company, Inc. ("Ray Water" or "Applicant"), filed an application with the Arizona Corporation Commission ("Commission") requesting authorization to execute a loan agreement with R & M Real Estate Limited Partnership, L.L.P. of Arizona ("R & M Real Estate"). R & M Real Estate is a separate entity owned by the shareholders of the Applicant.

PUBLIC NOTICE

On March 26, 2009, the Applicant filed an affidavit of publication verifying public notice of its financing application. The Applicant published notice of its financing application in the *Daily Territorial* on March 17, 2009. The *Daily Territorial* is a daily newspaper of general circulation in the City of Tucson, Pima County, State of Arizona. The affidavit of publication is attached along with a copy of the Notice.

BACKGROUND

Ray Water is a Subchapter "C" Corporation and a Class "C" Arizona public service corporation located in an area southeast of the City of Tucson, Arizona. The Applicant operates a public water utility in portions of Pima County, Arizona.

COMPLIANCE

A check of the compliance database indicates that there are currently no delinquencies for Ray Water.

PURPOSE AND DESCRIPTION OF THE REQUESTED FINANCING

The purpose of the loan is to fund the engineering and construction of a new well to replace existing Well No. 6. The Applicant requests that the Commission authorize the financing in an amount not to exceed \$500,000 from R & M Real Estate for a promissory note. The Applicant expects a 10-year amortizing loan at 9 percent per annum.

ENGINEERING ANALYSIS

The Staff Engineering Memorandum is attached. Staff reviewed the Applicant's proposed capital improvements and found that the existing water system has adequate production and storage capacity. Therefore, Staff cannot conclude that constructing the proposed additional well capacity is reasonable and appropriate, even though the Applicant's cost estimates for the construction are reasonable. Staff makes no "used and useful" determination pertaining to the proposed capital improvements nor does it make any conclusions for rate base or ratemaking purposes.

FINANCIAL ANALYSIS

Staff's analysis is shown in Schedule BCA-1. Column [A] of the schedule reflects the Applicant's historical financial information for the year ended December 31, 2008, and Column [B] presents pro forma financial information that modifies Column [A] to reflect a \$500,000, 10-year amortizing loan at 9 percent per annum, which represents the Applicant's proposed new loan.

Debt service coverage ("DSC") ratio represents the number of times internally generated cash will cover required principal and interest payments on short-term and long-term debt. A DSC greater than 1.0 indicates that cash flow from operations is sufficient to cover debt obligations. A DSC less than 1.0 means that debt service obligations cannot be met by cash generated from operations and that another source of funds is needed to avoid default.

Schedule BCA-1 shows that for the year ended December 31, 2008, a meaningful DSC cannot be calculated because the Applicant had no outstanding debt. An analysis reflecting a fully drawn \$500,000, 10-year amortizing 9 percent loan results in a pro forma 1.70 DSC as shown in Schedule BCA-1 Column [B]. Since this pro forma DSC is greater than 1.0, it shows that Ray Water would have adequate cash flow from operations to cover all debt obligations.

Capital Structure

As of December 31, 2008, the Applicant's capital structure consisted of 100 percent equity (Schedule BCA-1, Column [A], lines 19-25). Staff calculated a pro forma capital structure reflecting issuance of a \$500,000, 10-year amortizing loan at 9 percent per annum, and it is composed of 1.9 percent short-term debt, 27.6 percent long-term debt and 70.5 percent equity (Schedule BCA-1, Column [B], lines 19-25).

Capital Structure inclusive of AIAC and CIAC

As of December 31, 2008, the Applicant's capital structure, inclusive of Advances-In-Aid-of-Construction ("AIAC") and Net Contributions-In-Aid-of-Construction ("CIAC")¹ consisted of 0.0 percent short-term debt, 0.0 percent long-term debt, 44.3 percent equity, 39.5 percent AIAC and 16.2 percent CIAC (Schedule BCA-1, Column [A], lines 30-40).

Proposed Terms

In this case, the Applicant proposes to borrow from an affiliate; hence, the motivation to obtain the best available terms is reduced. The Applicant's application uses two bank term sheets to support its proposed terms of 10 years and 9.0 percent interest rate. However, bank loans represent a small portion of the loans offered to water utilities under the Commission's jurisdiction. The Water Infrastructure Financing Authority of Arizona ("WIFA") dominates this

¹ Contributions in Aid of Construction less Accumulated Amortization of Contributions in Aid of Construction.

market. Therefore, bank loan offers are not representative of the majority of loans issued to water utilities.

WIFA typically provides 20-year loans at the prime rate (currently 3.25 percent) plus 2.00 percent, a significantly lower interest rate than that of the proposed loan. WIFA loans do require encumbering assets, establishing a "Debt Service Reserve Fund" and obtaining WIFA approval; however, the potential savings in interest expense is substantial. Accordingly, in the absence of a good faith effort to obtain a WIFA loan, the authorized terms should not be significantly less favorable than those available from WIFA.

CONCLUSION AND RECOMMENDATIONS

Staff concludes that Ray Water's existing water system has adequate production and storage capacity. Therefore, Staff cannot conclude that constructing the proposed additional well capacity is reasonable and appropriate, even though the Applicant's cost estimates for the construction are reasonable.

Staff concludes that the Applicant's proposed lender, an affiliate, may not offer the best available terms; accordingly, in the absence of a good faith effort to obtain a WIFA loan and in the event that the proposed financing is approved, the authorized terms should not be significantly less favorable than those available from WIFA.

Staff further concludes that issuance of the proposed debt financing for the purposes stated in the application is within Ray Water's corporate powers and would not impair its ability to provide services and would be consistent with sound financial practices if obtained with terms consistent with the best available. However, the loan would not be compatible with the public interest since the intended use of the proceeds is unnecessary for the provision of service and would be an inefficient use of financial and other resources.

Staff recommends denial of Ray Water's request for authorization to incur a 10-year amortizing loan in an amount not to exceed \$500,000 from R & M Real Estate at a 9 percent interest rate.

Staff is not recommending authorization to incur debt; however, in the event that the Commission grants such authorization to the Applicant, Staff recommends authorization to incur a 10-to-22 year amortizing loan in an amount not to exceed \$500,000 from R & M Real Estate or another lender at an interest rate not exceed the prime rate plus 3.00 percent.

Staff further recommends, in the event that debt incurrence is authorized, that the Commission authorize Ray Water to pledge its assets in the State of Arizona pursuant to A.R.S. § 40-285, if necessary, in connection with the loan.

Staff further recommends, in the event that debt incurrence is authorized, authorizing Ray Water to engage in any transactions and to execute any documents necessary to effectuate the authorizations granted.

Staff further recommends, in the event that debt incurrence is authorized, that Ray Water file with Docket Control, as a compliance item in this matter, a copy of the fully executed loan documents, within 60 days of the execution of any financing transaction authorized herein.

Staff further recommends, in the event that debt incurrence is authorized, that Ray Water file with Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Environmental Quality's Certificate of Approval to Construct for the replacement well when received by Ray Water, but not later than one year after the effective date of the order granting this application.

Staff recommends that any unused authorizations to issue debt granted in this proceeding terminate on December 31, 2010.

FINANCIAL ANALYSIS

Selected Financial Information

		[A] ¹ 12/31/2008		[B] ² Pro Forma	
1	Operating Income	\$ 21,125		\$ 21,125	
2	Depreciation & Amort.	109,876		109,876	
3	Income Tax Expense	(1,653)		(1,653)	
4					
5	Interest Expense	0		43,689	
6	Repayment of Principal	0		32,317	
7					
8					
9					
10					
11	DSC				
12	[1+2+3] ÷ [5+6]	N/M ³		1.70	
13					
14					
15					
16					
17	Capital Structure				
18					
19	Short-term Debt	0	0.0%	32,317	1.9% ⁴
20					
21	Long-term Debt	0	0.0%	467,683	27.6%
22					
23	Common Equity	1,195,207	100.0%	1,195,207	70.5%
24					
25	Total Capital	\$ 1,195,207	100.0%	\$ 1,695,207	100.0%
26					
27					
28	Capital Structure (inclusive of AIAC and Net CIAC)				
29					
30	Short-term Debt	0	0.0%	32,317	1.0%
31					
32	Long-term Debt	0	0.0%	467,683	14.6%
33					
34	Common Equity	1,195,207	44.3%	1,195,207	37.4%
35					
36	Advances in Aid of Construction ("AIAC")	1,064,284	39.5%	1,064,284	33.3%
37					
38	Contributions in Aid of Construction ("CIAC") ⁵	437,452	16.2%	437,452	13.7%
39					
40	Total Capital (Inclusive of AIAC and CIAC)	\$ 2,696,943	100.0%	\$ 3,196,943	100.0%
41					
42					
43	AIAC and CIAC Funding Ratio ⁶	55.7%		47.0%	
44	(36+38)/(40)				

¹ Column [A] is based on 2008 financial information for the year ended December 31, 2008.

² Column [B] is Column [A] modified to reflect issuance of the proposed \$500,000 debt financing amortized for 10 years at 9.0 percent per annum.

³ Not Meaningful

⁴ Pro Forma Short-term Debt represents the first year principal repayment on the proposed loan.

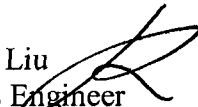
⁵ Net CIAC balance (i.e. less: accumulated amortization of contributions).

⁶ Staff typically recommends that combined AIAC and Net CIAC funding not exceed 30 percent of total capital, inclusive of AIAC and Net CIAC, for private and investor owned utilities.

MEMORANDUM

DATE: August 21, 2009

TO: Brendan Aladi
Public Utilities Analyst III
Utilities Division

FROM: Jian W. Liu 
Utilities Engineer
Utilities Division

RE: Ray Water Company, Inc.
Docket No. W-01380A-09-0106 (Financing)

Introduction

Ray Water Company, Inc. ("Ray Water" or the "Company") is an Arizona public service corporation authorized to provide water service within portions of Pima County, Arizona. Ray Water provided service to 1,510 customers as of December 31, 2008.

Financing Application

On March 11, 2009, the Company filed an application with the Commission requesting authority to borrow \$500,000 from R & M Real Estate Limited Partnership, L.L.P. for a term of 10 years at a 9 percent interest rate. R & M Real Estate Limited Partnership, L.L.P. is a separate, independent entity owned by the shareholders of Ray Water.

If the subject financing is approved, Ray Water intends to use the funds for the engineering and construction of a well to replace its existing Well No. 6.

On or about December 6, 2008, Ray Water Well #6 stopped operating. After the pump and submersible motor were pulled and the well was videoed, it was determined that there were many holes in both the well's blank casing and screen. Because of the poor condition of the casing and screen, Company's hydrology consultants, Clear Creek Associates, recommended abandoning the existing well and drilling a replacement well.

Engineering Analysis

The existing water system consists of four wells capable of producing approximately 1,125 gallons per minute ("GPM") of total capacity, and a total storage tank capacity of 775,000 gallons. Based on 2008 water use data, Ray Water's existing water system (without Well No. 6) can adequately support approximately 780 additional connections. If the top producing well,

which produces approximately 400 GPM, is taken off line the water system would have a minimal capacity deficiency of approximately 28 connections.

Ray Water Company has an interconnect with the Tucson Water system. This interconnect can be used as an additional source of water for the Company in the event of an emergency. The Company has experienced minimal customer growth in recent years. Therefore, Staff cannot conclude that the construction of additional well capacity is reasonable and appropriate.

Cost Analysis

The Company's estimated cost for the proposed Well No. 6 replacement project is as follows:

Drill replacement well:	\$252,000
Site work to install pump, electric and connect to existing storage	215,000
Hydrology consultant	21,050
Source Approval sampling	3,500
Engineering design & inspection work	47,300

TOTAL (not including 15 percent contingency)	\$538,850
---	------------------

Staff has reviewed the Company's proposed plant additions and concludes that the above listed cost estimates are reasonable. However, no "used and useful" determination of the proposed plant was made, and no particular future treatment should be inferred for rate making or rate base purposes.

Arizona Department of Environmental Quality ("ADEQ") Compliance Status

ADEQ regulates the Company's Water Systems under ADEQ Public Water System ("PWS") #10-095. ADEQ reported that the Ray Water drinking water system is in compliance with regulatory agency requirements and is currently delivering water that meets State and Federal drinking water quality standards as required by the Arizona Administrative Code, Title 18, Chapter 4. (ADEQ report Dated June 25, 09).

Arizona Corporation Commission Compliance Status

A check of the Utilities Division Compliance database showed there were no delinquent compliance items for the Company.

Arizona Department of Water Resources Compliance ("ADWR") Status

The Company is located in Tucson Active Management Area ("AMA") and is subject to AMA reporting and conservation requirements.

Staff received an ADWR compliance status report on July 16, 2009. ADWR reported that Ray Water is currently in compliance with departmental requirements governing water providers and/or community water systems.

Conclusions

Staff concludes that Ray Water's existing water system has adequate production and storage capacity. Therefore, Staff cannot conclude that the construction of additional well capacity is reasonable and appropriate.

RAY WATER COMPANY, INC.

414 North Court Avenue
Tucson, Arizona 85701
(520) 623-1332
FAX (520) 623-2302

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CORP COMMISSION
DOCKET CONTROL

March 20, 2009

Arizona Corporation Commission
Utilities Division
Docket Control Center
1200 West Washington
Phoenix, AZ 85007

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MAR 26 2009

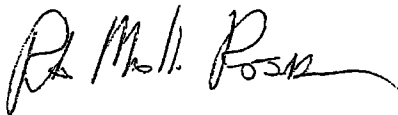
CORP COM.
DOCKET CONTROL

RE: Docket #W-01380-A-09-0106

To Whom It May Concern:

Enclosed is the evidence of publication of public notice of our Application for Long Term Financing. Please add this to our above-referenced Docket. If you have any questions, please call me at (520) 623-2366.

Sincerely,



Rhonda Mallis Rosenbaum
General Manager
Ray Water Company

Enclosures

Ray Water
Re: Docket # W-01380-A-09-0106

AFFIDAVIT OF PUBLICATION

STATE OF ARIZONA)
COUNTY OF PIMA) ss.

Jamie Macias, being first duly sworn, deposes and says that (s)he is the Legal Advertising Manager of THE DAILY TERRITORIAL, a daily newspaper printed and published in the County of Pima, State of Arizona, and of general circulation in the City of Tucson, County of Pima, State of Arizona and elsewhere, and the hereto attached:

PUBLIC NOTICE
AUTHORIZING ISSUANCE OF PROMISSORY NOTE BY
RAY WATER CO

was printed and published correctly in the regular and entire issue of said THE DAILY TERRITORIAL for 1 issues; that was first made on the 17th day of March 2009 and the last publication thereof was made on the 17th day of March 2009 ; that said publication was made on each of the following dates, to-wit:

03/17/09

at the Request of: Rhonda Rosenbaum

The Daily Territorial
by Jamie Macias, Legal Advertising Manager
Subscribed and sworn to before me this 17th day of March 2009 .

Robbie Jones

Notary Public in and for the County of Pima, State of Arizona

My commission expires: 11-1-12



ROBBIE JONES
Notary Public - Arizona
Pima County
Expires 11/01/2012

Advertising Receipt

Territorial Newspapers, Inc.
THE DAILY TERRITORIAL
POB 27087 - Tucson, AZ 85726

Phone: (520) 294-1200
Fax: (520) 295-4076

Rhonda Rosenbaum
414 N. Court
Tucson, AZ 85701

Acct #: 04101442
Ad #: 00049310
Phone: (520) 623-2366
Date: 01/27/2009
Ad taker: JM Salesperson:

Sort Line: 1/30 quote

Classification 125

Description	Start	Stop	Ins.	Cost/Day	Total
01 The Daily Territorial	03/17/2009	03/17/2009	1	26.13	26.13
AfC Aff of Publication					5.00
AfRe Return Aff to Custome					0.00

Ad Text:

PUBLIC NOTICE
OF AN APPLICATION
FOR AN ORDER
AUTHORIZING THE ISSUANCE OF PROMISSORY NOTE
BY RAY WATER COMPANY.

Ray Water Company filed an Application with the Arizona Corporation Commission ("Commission") for an order authorizing Applicant to issue up to \$500,000 of long-term debt. The application is available for inspection during regular business hours at the office of the Commission Phoenix, Arizona, and the company's offices in Tucson, Arizona. Intervention in the commission's proceedings on the application shall be permitted to any person entitled by law to intervene and having a direct

Payment Reference:

Rhonda Rosenbaum CC NO. 0801
05/10 -31.13 Auth:

Total: 31.13

Tax: 0.00

Net: 31.13

Prepaid: -31.13

Total Due: 0.00

PUBLIC NOTICE
OF AN APPLICATION
FOR AN ORDER
AUTHORIZING THE ISSUANCE OF
PROMISSORY NOTE
BY RAY WATER COMPANY.

Ray Water Company filed an Application with the Arizona Corporation Commission ("Commission") for an order authorizing Applicant to issue up to \$500,000 of long-term debt. The application is available for inspection during regular business hours at the office of the Commission in Phoenix, Arizona, and the company's offices in Tucson, Arizona.

Intervention in the commission's proceedings on the application shall be permitted to any person entitled by law to intervene and having a direct substantial interest in this matter. Persons desiring to intervene must file a Motion to Intervene with the Commission which must be served upon applicant and which, at a minimum, shall contain the following information: 1. The name, address and telephone number of the proposed intervenor and of any person upon whom service of documents is to be made if different than the intervenor.

2. A short statement of the proposed intervenor's interest in the proceeding.

3. Whether the proposed intervenor desires a formal evidentiary hearing on the application and the reasons for such a hearing.

4. A statement certifying that a copy of the Motion to Intervene has been mailed to Applicant.

The granting of Motions to Intervene shall be governed by A.A.C. R14-3-105, except that all Motions to Intervene must be filed on, or before, the 15th day after this notice.

PUBLISH: The Daily Territorial
March 17, 2009
pnraywater j.m

Re: Ray Water Co

Docket # W-01380-A-09-0106